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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL - 8 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In The Matter of

**BROADBAND PCS C AND F BLOCK
INSTALLMENT PAYMENT
RESTRUCTURING**

WT DOCKET NO. 97-82

**REPLY COMMENTS OF THE
TELECOMMUNICATIONS RESELLERS ASSOCIATION**

By Public Notice, DA 97-679 (released June 2, 1997), the Wireless Telecommunications Bureau ("Bureau") has sought public comment on pending proposals to restructure the installment payment obligations of C-block broadband Personal Communications Services ("PCS") licensees. The Telecommunications Resellers Association ("TRA"), through undersigned counsel, hereby submits these Reply Comments in support of those commenters that have urged the Commission to adopt alternative financing arrangements for C-block broadband PCS licensees in order to facilitate their active long-term participation in the wireless services market.

A national trade association, TRA represents more than 500 entities engaged in, or providing products and services in support of, telecommunications resale. TRA was created, and carries a continuing mandate, to foster and promote telecommunications resale, to support the telecommunications resale industry and to protect and further the interests of entities engaged in the resale of telecommunications services. Among other telecommunications services, TRA's

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resale carrier members are actively engaged in the resale of cellular radiotelecommunications ("cellular") and paging services, and will undertake to resell broadband PCS, as well as enhanced specialized mobile radio services ("ESMR"), as these services become commercially available. Indeed, in 1996, one in five of TRA's resale carrier members offered one or more wireless services, a percentage increase of 25 percent over the preceding year.

Although these numbers are not unimpressive, resale of cellular service unfortunately has not exploded with anywhere near the force that has characterized the dramatic growth of resale in the domestic interexchange and international telecommunications arenas. The reason that wireless resale continues to lag behind is manifest. Whereas significant segments of the landline interexchange community have now accepted resale as an attractive alternative distribution channel, many cellular licensees both continue to view resale carriers with animosity and retain the market power to discriminate against them.¹

TRA remains hopeful that with the nationwide rollout of multiple broadband PCS systems in individual markets, opportunities for wireless resale will expand dramatically as resale opportunities in the landline interexchange market did with the deployment of multiple national and regional fiber optic networks. This optimistic view, however, is very much contingent upon the successful construction and operation of C-block broadband PCS systems across the Nation.

¹ As the Commission has recognized, an entity that serves a substantial percentage of the potential subscribers in a market "has little incentive to assist new entrants in their efforts to secure a greater share of that market." Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd. 15499, ¶ 10 (1996), *motion for stay denied*, 11 FCC Rcd. 11754, *recon.* 11 FCC Rcd. 13042 (1996), *further recon.* 11 FCC Rcd. 19734 (1996), *further recon. pending, pet. for rev. pending sub nom. Iowa Utilities Board v. FCC* (and consolidated cases), Case No. 96-3321, *et al.*, (8th Cir. Sept. 5, 1996), *partial stay granted* 109 F.3d 1418 (1996), *stay lifted in part* (Nov. 1, 1996), *motion to vacate stay denied* 117 S.Ct. 429 (1996). Cellular licensees "are required to make available their facilities and services to . . . [resale carriers] that intend to compete directly with the . . . [licensee] for its customers." *Id.* at ¶ 55.

Key A- and B-block PCS licensees have already signalled a reluctance to voluntarily utilize resale distribution channels. As reported in one trade publication:

The largest PCS player in the country is not even considering resale. Sprint Spectrum -- the alliance between Sprint, Cox Communications, Tele-Communications Inc. and Comcast Corp. -- . . . will use a mix of its own stores and retail partners to distribute the service to the mass market. . . . "That kind of eliminates the need for resellers," [Ed] Mattix[, chief public relations officer for Sprint Spectrum] said. "When you can reach the mass market, why do you need resellers."

Resale does not play a prominent role in AT&T Wireless Services' business plan. . . . AT&T feels the best way to serve customers is to do it directly, not through resellers.²

In sharp contrast, a number of C-block broadband PCS licensees have embraced resale. For example, Nextwave Telecom, Inc. ("Nextwave") has positioned itself as a "carrier's carrier" in much the same manner that certain new-entrant facilities-based carriers, such as WilTel, did in the landline interexchange market. And just as WilTel was instrumental in the dramatic growth of landline interexchange resale, TRA submits that C-block broadband PCS licensees such as Nextwave will likely be critical to the development of a dynamic wireless resale industry. TRA submits that in order to unleash the market forces necessary to ensure nondiscriminatory treatment of wireless resale carriers, a critical mass of facilities-based providers must be achieved in individual markets; the C-block broadband PCS licensees are essential components of that critical mass.

TRA and its hundreds of resale carrier members thus have a strong interest in both the rapid deployment of C-block broadband PCS systems and in the long-term viability of C-

² Borda, W., "Cellular Resellers Hope PCS Carriers Usher in New Age of Resale," Communications Today (June 11, 1996).

block broadband PCS licensees. Due to an unfortunate confluence of events, both of these ends are currently in jeopardy. The C-block broadband PCS auctions yielded far higher than anticipated prices which have, when coupled with the massive capital demands of system construction and service roll-out, burdened C-block broadband PCS licensees with enormous capital requirements.³ Unfortunately, given persistent delays in the conduct of the C-block broadband PCS auctions, C-block broadband PCS licensees not only missed a critical financing window, but experienced significant losses in equity value due to negative stock and financial market reactions.⁴ The net result is that many C-block broadband PCS licensees are currently unable to continue rapid system build-out and at the same time, satisfy current installment payment obligations to the Federal government.

Delay in system construction by C-block broadband PCS licensees reduces the number of wireless competitors and dampens the degree of wireless competition in individual markets. Resale carriers are adversely impacted by the lesser number of available wholesale opportunities. Consumers are hurt by the diminution of competition resulting both directly from the absence of C-block broadband PCS service offerings and indirectly from the reduced market

³ Implementation of Section 309(j) of the Communications Act - Competitive Bidding ("Fifth Report and Order"), PP Docket No. 93-253, FCC 94-178, 9 FCC Rcd. 5532, ¶ 111 (1994) ("While the new broadband PCS service presents tremendous opportunities for designated entities to participate in the next generation of innovative wireless mobile telecommunications services, it is expected to be a highly competitive service, and the estimated costs of acquiring a license and constructing facilities are substantial.").

⁴ As the Commission has recognized, "[a] significant barrier for most businesses small enough to qualify to bid in the entrepreneurs' blocks will be access to adequate private financing to ensure their ability to compete against larger firms in the PCS marketplace." Implementation of Section 309(j) of the Communications Act - Competitive Bidding ("Fifth Report and Order"), PP Docket No. 93-253, FCC 94-178, 9 FCC Rcd. 5532 at ¶ 135.

participation by resale carriers.⁵ Nor is this concern a theoretical one. Nextwave, for example, has already announced that it is scaling back its original network "build-out" program, narrowing its current focus to its ten largest markets.⁶

TRA submits that all of the various debt restructuring proposals currently pending before the Bureau, including extension of loan terms, deferral of interest payments, and forgiveness of some percentage of principal, would help to alleviate this pressing concern. Rescheduling the debt of the C-block broadband PCS licensees will permit these entities to help achieve the Commission's vision of a fully competitive wireless industry.⁷ And such action would not only further the Congressional goal of fostering competition across all telecommunications markets,⁸ but accomplish the principal purpose for establishing the "entrepreneurs block," as well as another Congressional mandate -- enhancing the participation of small businesses in the telecommunications industry.⁹ As the Commission has recognized, "low cost government financing will promote long-term participation by . . . [C-block broadband

⁵ "We continue to believe that prohibiting restrictions on resale confers important public benefits in markets that are less than fully competitive." Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, FCC 96-263, 3 Comm. Reg. (P&F) 895 (1996), *pet. for recon pending, pet. for rev pending sub nom. Cellnet Comm. v. FCC*, Case No. 96-4022 (6th Cir. Sept. 18, 1996).

⁶ "Nextwave Closes Units to Focus on Rollouts," Telecommunications Reports Wireless News, Vol. 7, No. 12, pp. 13 - 14 (June 12, 1997).

⁷ Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, FCC 96-263, 3 Comm. Reg. (P&F) 895 at ¶ 17.

⁸ Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 103 (1996)

⁹ 47 U.S.C. § 257.

PCS licensees], which because of their smaller size, lack access to sufficient capital to compete effectively with larger PCS licensees."¹⁰

TRA urges the Commission to follow through on a commitment made early-on to C-block broadband PCS licensees:

[W]e . . . intend that designated entities who win licenses have the opportunity to become strong competitors in . . . [broadband PCS] service.¹¹

To this end, TRA recommends that the Commission take such actions as are necessary in restructuring the debt obligations of C-block broadband PCS licensees to ensure that these entities do indeed have the "opportunity to become strong competitors."

Respectfully submitted,

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¹⁰ Implementation of Section 309(j) of the Communications Act - Competitive Bidding ("Fifth Report and Order"), PP Docket No. 93-253, FCC 94-178, 9 FCC Rcd. 5532 at ¶ 136 (1994).

¹¹ Id. at ¶ 111.

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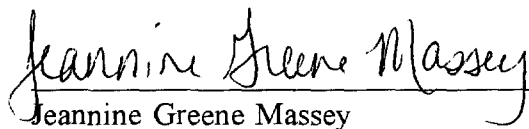
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